

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF VIRGINIA  
Alexandria Division**

<b>JOSE MOSQUERA,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>Civil Action No. No.1:12-cv-1513</b>
	)	
<b>MCCABE WEISBERG &amp; CONWAY,</b>	)	
<b>LLC. <i>et al.</i></b>	)	
	)	
<b>Defendants.</b>	)	

**DEFENDANT’S MOTION TO DISMISS**

COMES NOW, Defendant McCabe, Weisberg & Conway, LLC., (“McCabe”), by undersigned counsel, who submits this Motion to Dismiss Plaintiff Jose Mosquera’s (“Plaintiff”) Complaint pursuant to Fed. R. Civ. P. 12(b)(7) or in the alternative, pursuant to Fed. R. Civ. P. 12(b)(6).

Plaintiff has failed to include a necessary party by failing to join the noteholder in this action related to the institution of foreclosure proceedings, additionally, Plaintiff’s Complaint fails to state a cause of action against Defendant for violations of the Fair Debt Collection Practices Act (FDCPA). For the reasons set forth in the accompanying Memorandum of Law in Support of Defendants Motion to Dismiss filed herewith, Defendant respectfully request that this honorable court dismiss Plaintiff’s Complaint for failure to include an necessary party, or in the alternative, with prejudice as to the failure to state a claim upon which relief may be granted.

Dated: February 8, 2013

Respectfully submitted:  
MCCABE, WEISBERG & CONWAY, LLC.

/s/Abby K. Moynihan, Esq.  
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**CERTIFICATE OF SERVICE**

I hereby certify that on February 8, 2013, I will electronically file the foregoing with the Clerk of Court using the CM/ECF system, which will send a notification of such filing (NEF) to the following:

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